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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

THERESA MADRID,

Plaintiff,

vs.

ANDREW SAUL,
Commissioner of Social Security,

Defendant.

CIVIL NO. 4:20-04880-HSG

ORDER AND MOTION FOR
EXTENSION OF TIME TO FILE THE
ELECTRONIC CERTIFIED
ADMINISTRATIVE RECORD AND
ANSWER TO PLAINTIFF'S
COMPLAINT

Defendant, Andrew Saul, Commissioner of Social Security (the "Commissioner"), by and through his undersigned attorneys, hereby moves for a 60-day extension of time to file Defendant's Electronic Certified Administrative Record and Answer to Plaintiff's Complaint. Defendant's Electronic Certified Administrative Record and Answer to Plaintiff's Complaint are due to be filed by November 3, 2020.

In light of the global COVID-19 pandemic, SSA has taken the unprecedented step of suspending in-office services to the public: <https://www.ssa.gov/coronavirus/>. The Agency is focusing on providing

1 the most critical services by mail, phone and online to those most in need. SSA is also taking additional
2 steps to protect its employees and help stop the spread of COVID-19, maximizing social distancing,
3 including significantly limiting employee access to SSA facilities for health and safety only and has
4 moved toward a temporary virtual work environment. Electronic processes allow some of SSA's most
5 critical work to continue with minimal interruption; other workloads have been suspended until the
6 health crisis abates or the Agency is able to create new electronic business processes.

8 For purposes of this particular case, the public health emergency pandemic has significantly
9 impacted operations in the Social Security Administration's Office of Appellate Operations (OAO) in
10 Falls Church, Virginia. That office is responsible for physically producing the administrative record that
11 is required to adjudicate the case under Sections 205(g) and (h) of the Social Security Act, 42 U.S.C. §
12 405(g) and (h). *See* SSA Program Operations Manual System GN 03106.025.

14 As detailed in the attached declaration, beginning March 16, 2020, OAO's staff members began
15 to telework to protect employee health and prevent further spread of COVID-19. At that time, critical
16 in-person physical tasks associated with preparing the administrative record could not be accomplished.
17 For example, prior to the COVID-19 pandemic, to safeguard Personally Identifiable Information (PII),
18 all hearing recordings, which are part of the administrative record, were downloaded onto compact discs
19 and encrypted. OAO securely routed the encrypted discs to a private contractor through a daily pickup
20 and delivery service at the Official Duty Station (ODS) in Falls Church, Virginia. The private contractor
21 would transcribe the hearing recording and send the paper copy of the hearing transcript back to OAO.
22 OAO personnel would then scan the hearing transcript into the electronic record or place the hearing
23 transcript in the paper case file. Thereafter, OAO personnel would assemble the administrative record in
24 a prescribed order.

27 To ensure a continuity of operations, OAO has been actively pursuing mitigation efforts to allow
28

1 the remote preparation of administrative records. For cases in which the private contractors were
2 already in possession of hearing recordings for transcription, with the assistance of the Office of
3 Acquisitions and Grants (OAG), OAO received approval to receive these transcripts from the private
4 contractors via secured email, e.g., using password protection and redacted Social Security Numbers. In
5 April 2020, OAO began receiving such hearing transcripts from private contractors via secured email.
6

7 For cases in which OAO had not yet submitted recordings to the private contractors before
8 March 16, 2020, OAO has been pursuing all available options to obtain transcriptions for these cases. In
9 May 2020, OAO began encrypting hearing recordings and securely emailing them to the contractors for
10 transcription. Through the month of May, OAO and the contractors worked to resolve technical issues
11 that arose, particularly with large files. Although the current process is working better, OAO still needs
12 additional transcription capacity from our transcript typing contractors in order to produce enough
13 CARs. As of late July 2020, OAO has continued to increase its productivity and is working to increase
14 the capacity of our transcription typing services. The process is functioning now, albeit at only half to
15 one third of normal productivity.
16
17

18 Given the volume of pending cases, Defendant requests an extension in which to respond to the
19 Complaint until January 4, 2021. If in 60 days the electronic certified administrative record is not
20 prepared, the Commissioner will file a status report with the Court as to when he expects the
21 administrative record to be completed.
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23 Counsel for Defendant contacted counsel for Plaintiff on October 30, 2020, who indicated she
24 had no objection to this motion.

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Respectfully submitted,

Dated: November 3, 2020

DAVID L. ANDERSON
United States Attorney

By: /s/ Annabelle J. Yang
ANNABELLE J. YANG
Special Assistant United States Attorney
Attorneys for Defendant

IT IS SO ORDERED:

Haywood S. Gilliam, Jr.
THE HONORABLE HAYWOOD S. GILLIAM, JR.
UNITED STATES DISTRICT JUDGE

DATE: 11/6/2020